

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CATHERINE MARTINO,

Plaintiff,

- against -

**WESTCHESTER COUNTY DEPARTMENT OF
CORRECTIONS, et al.,**

Defendants.

**REPORT AND
RECOMMENDATION**

06 Civ. 9900 (PKC) (RLE)

To the HONORABLE P. KEVIN CASTEL, U.S.D.J.:

On October 17, 2006, *pro se* Plaintiff Catherine Martino commenced this action, bringing suit against the Westchester County Department of Corrections and numerous named and John/Jane Doe defendants for alleged failure to provide medical attention and services. In February 2008, after dismissing Martino's Complaint as to all named Defendants, Judge Castel referred the matter to the undersigned to assist Martino in identifying John and Jane Doe Defendants. Over the course of the next fifteen (15) months, the Court held telephonic conferences with Martino and counsel from the Westchester County Attorney's Office, ordered Westchester County Department of Corrections to provide Martino with various records and logs to assist Martino in identifying individuals, and on numerous occasions directed Martino to allege specific facts relevant to newly identified Defendants and their respective roles in the claims in her Complaint. Finally, on May 21, 2009, Martino filed a Second Amended Complaint.

On July 29, 2009, finding that Martino had failed to comply with Judge Castel's January 15, 2008 Order and this Court's directive to plead specific facts as to named Defendants, the undersigned ordered that Martino show good cause on or before August 12, 2009, why her case should not be dismissed for failure to prosecute. To date, Martino has failed to respond.

Therefore, I recommend that this case be **DISMISSED** for failure to prosecute.

Pursuant to Rule 72, Federal Rules of Civil Procedure, the parties shall have ten (10) days after being served with a copy of the recommended disposition to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court and served on all adversaries, with extra copies delivered to the chambers of the Honorable P. Kevin Castel, 500 Pearl Street, Room 2260, and to the chambers of the undersigned, Room 1970. Failure to file timely objections shall constitute a waiver of those objections both in the District Court and on later appeal to the United States Court of Appeals. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985); *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (*per curiam*); 28 U.S.C. § 636(b)(1) (West Supp. 1995); FED. R. CIV. P. 72, 6(a), 6(d).

DATED: August 24, 2009
New York, New York

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ronald L. Ellis", written over a horizontal line.

The Honorable Ronald L. Ellis
United States Magistrate Judge

Copies of this Report and Recommendation were sent to:

Pro Se Plaintiff

Catherine Martino
402 Chestnut Avenue
East Meadow, NY 11554

Counsel for Defendants

Sara M. Beaty
Assistant County Attorney, Litigation Bureau
Westchester County Attorney's Office
148 Martine Avenue, 6th Floor
White Plains, NY 10601

Counsel for Defendant Dr. Robert Mahler

Gregory J. Radomisli
Martin Clearwater & Bell
220 East 42nd Street
New York, NY 10017-5842